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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

S.M. et al.,

Petitioners,

v.

THE SUPERIOR COURT OF LOS  
ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Real Party in Interest.

No. B210296

(Los Angeles County  
Super. Ct. No. CK62629)

ORIGINAL PROCEEDINGS; petitions for extraordinary writ. Valerie Skeba,  
Juvenile Court Referee. Petitions denied.

Law Office of Barry Allen Herzog, Ellen L. Bacon and Molly Walker for  
Petitioner S.M.

Law Offices of Alex Iglesias, Steven D. Shenfeld and Carolyn Hobson for  
Petitioner R.V.

No appearance for Respondent.

Raymond G. Fortner, Jr., County Counsel, James M. Owens, Assistant County Counsel, and Timothy M. O’Crowley, Senior Deputy County Counsel, for Real Party in Interest.

Children’s Law Center of Los Angeles – CLC 1, Sophia Ali and Kristen Balelo for the Minors K.H., S.V., Sh.V. and Ro.V.

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By petitions for extraordinary writ, S.M. (Mother) and R.V. (Father) challenge an 18-month permanency review hearing order, made on August 21, 2008, terminating family reunification services and setting a permanency plan hearing for their four children on January 5, 2009. We deny the parents’ petitions because substantial evidence supports the juvenile court’s findings that reasonable services had been provided and that the Los Angeles County Department of Children and Family Services (DCFS) had made reasonable efforts to provide those services. The parents also fail to establish that the court abused its discretion in finding that there were no extraordinary circumstances warranting an extension of reunification services.

### **BACKGROUND**

This proceeding involves Mother’s three daughters, K.H. (born in Oct. 1996), S.V. (born in Sept. 2000), Sh.V. (born in March 2002), and a son, Ro.V. (born in Feb. 2006). Father is the biological and presumed father of all children except K.H., whose biological and presumed father, Roy H., did not appear.

In early March 2006, all four children were detained and placed in foster care with non-relatives after the girls’ physician and K.H.’s school staff reported to DCFS that the girls had head lice and impetigo (a bacterial skin infection caused by poor hygiene), S.V. had an abscess on her neck from impetigo, and K.H. came to school with a 102 degree fever and needed to be taken home. Hospital staff also reported that when Ro.V. was born one month prematurely in February 2006, the girls came to the hospital with dirty clothes and what appeared to be flea bites over their faces and bodies. Mother, who had a

developmental disability, was a client of the Lanterman Regional Center (Regional Center), but her case had been inactive after September 2005. Mother failed to reunify with her 17-year-old daughter, who was a dependent of the juvenile court in San Bernardino County. DCFS found the family home, a one-room apartment, to be crowded and messy, with a foul odor, filthy carpeting, and a broken refrigerator. Father admitted that the apartment building was rat infested.

The three girls, each of whom had developmental delays, were placed together in foster care; Ro.V. was placed in a separate foster home. The children remain with their respective foster parents, now also their prospective adoptive parents. S.V., K.H., and Ro.V. received services through a regional center; Sh.V. received services through the school district.

On March 3, 2006, the parents each signed a form stating that they received a list of counseling and parenting programs from the DCFS social worker. At the March 8, 2006 detention hearing, the court ordered the parents to enroll in individual counseling to address case issues and parenting and ordered DCFS to “use its best efforts in assisting the Mother with obtaining the referrals and services.” On March 30, the matter was sent to mediation. While the case was in mediation, the court ordered on May 9, 2006, that DCFS interview both parents, discuss with them the services being offered by DCFS, and ensure that the parents obtain referrals for the programs.

As a result of the mediation, the parents agreed to submit to portions of a petition declaring the children dependents pursuant to Welfare and Institutions Code section 300, subdivision (b) (failure to protect) based on the parents’ failure to maintain a sanitary home and to provide appropriate care and hygiene for the children, the children’s impetigo and S.V.’s abscess, and Mother’s failure to avail herself of Regional Center services, thus limiting her ability to provide supervision for her children.<sup>1</sup> The parents also agreed to suitable placement of the children and monitored visitation. Father agreed

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<sup>1</sup> Unspecified statutory references are to the Welfare and Institutions Code.

to participate in a parenting program and individual counseling; Mother agreed to participate in Regional Center services, where she was to enroll in parenting, individual counseling, and independent living skills (ILS) programs. Mother agreed to submit to a psychological evaluation and follow the recommendations of the evaluator for any skills programs.

On June 13, 2006, the juvenile court sustained an amended petition under section 300, subdivision (b), consistent with the parents' mediation agreement. On June 16, 2006, Father again received from DCFS referrals for parenting and counseling. On June 29, 2006, Mother was evaluated by a clinical psychologist, who prepared a nine-page report.<sup>2</sup>

The psychologist wrote that through the years, Mother consistently exhibited mild impairments in cognitive, adaptive, motor, and emotional functions and moderate to severe impairments in learning and academic skills. Mother had a significant speech impediment and impairments in short- and long-term memory; she showed limited self-esteem and coping skills. Testing showed Mother's reading skills to be at the first grade level and her arithmetic skills to be at the third grade level. Although Mother could perform independently such skills as hygiene and routine household chores, she had limited money management skills and had never learned to drive a car. Mother lacked

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<sup>2</sup> Although DCFS's children's social worker Anitra Shields claimed to have received a copy of the psychologist's June 2006 evaluation only in January 2008, the dependency investigator Mary Handen informed the juvenile court in writing on July 24, 2006, that a psychological evaluation of Mother was completed and had generated referrals for ILS and parenting education. Also in July 2006, the Regional Center sent a letter to the juvenile court which contained a copy of Mother's psychological evaluation. A January 2007 status review report prepared by Shields stated that the Regional Center's services coordinator told Shields that the Regional Center would be sending DCFS a progress report and the results of Mother's psychological evaluation. Thus, the juvenile court knew or reasonably should have known by January 2007 that Mother had participated in a psychological evaluation in June 2006.

“close and age-appropriate friendships, and her socialization is limited to activities with [Father].”

Mother “communicated in simple 4–6 word phrases” and relied extensively on Father for decisions and routine situations; in past interviews and annual reviews, Mother looked to Father for answers. In addition to her developmental disability and a learning disorder, Mother was also diagnosed with dependent personality disorder. The parents had rejected training opportunities and other programs in the past, but due to the recent court involvement and the likelihood of losing custody of their children, the parents were anxious to receive the proper counseling, guidance, and services. Thus, notwithstanding her disabilities, Mother was a “sensitive, caring, even-tempered and devoted parent,” whose current legal situation “could not have been intentional or maladaptive” and may have been the result of “the lack of adequate supportive guidance.” The psychologist recommended counseling, parenting, and independent living skills training; if reunited with the children, Mother would need DCFS supervision and monitoring in conjunction with Regional Center services and supervision.

On July 11, 2006, DCFS mailed the parents referrals for free and low cost individual counseling. A July 25, 2006 dispositional order removed the children from parental custody and ordered DCFS to provide the parents with family reunification services. Both parents were ordered to attend parenting and individual counseling addressing case issues. Mother was ordered also to participate in a psychological evaluation, attend counseling addressing independent living skills, with the Regional Center to provide all of the above services to Mother.

By November 2006, Father had completed his parenting program. During a December 2006 meeting between the parents and DCFS social worker Shields, who met the parents for the first time, Father became angry and used profane language after the social worker asked the parents to sign releases for DCFS to obtain information about their progress with the case plan. The parents eventually signed the releases. DCFS was informed by the foster family agency that monitored the parents’ visits that Father was verbally aggressive on several prior occasions and was asked to leave the premises. In a

January 2007 status review report, DCFS noted that the parents were consistent in their weekly visits and had improved their interaction with the children. Father was receptive to suggestions to improve his interaction with the children, but Father would benefit from anger management counseling and also family counseling to improve his relationship with K.H., who was not his biological child.

At a January 23, 2007 hearing, the juvenile court read and considered a Regional Center letter stating that Mother participated in an independent living skills assessment in August 2006 but had not followed through with any of the services and programs notwithstanding the numerous letters sent to her from October to December 2006. In February 2007, the court found that the parents were in partial compliance with the case plan and that DCFS made reasonable efforts to reunite the family.

In April and May 2007, Father participated in four family therapy sessions with K.H. and then stopped attending, stating that he was no longer interested in family therapy. In August 2007, the foster family agency reported that during a visit in July 2007, Father became upset and aggressive when he complained that the visitation room was too small. The children were frightened and ran to the caregivers for safety; Father was escorted out of the room. The caregiver also was afraid of Father and did not feel comfortable or safe in his presence.

In August 2007, DCFS reported that Mother was participating in Regional Center services, but she claimed the services were not helping her. The Regional Center services coordinator would not release information about Mother to DCFS, so DCFS was unable to obtain information on Mother's progress. On August 7, 2007, the court ordered DCFS to assist the parents in the enrollment process for Regional Center and other services.

In September 2007, Mother enrolled in parenting and individual counseling through the Regional Center; Father enrolled in individual counseling, which he completed in November or December 2007.<sup>3</sup>

In December 2007, a DCFS social worker met with Mother's Regional Center worker and learned that Father would not let the worker into the family's apartment to work with Mother, so Mother and the worker met at a nearby fast food restaurant.

At a hearing in January 2008, Father testified that he and Mother had moved a few days ago to a new apartment; he was embarrassed about the condition of their former apartment, which had water leaks and a nonworking stove, so he had not allowed the social workers to see their former apartment. Mother's parenting instructor since November 2006, Christine Stanford, testified that she spent 40 hours per month working with Mother. Mother kept her appointments, but because they did not meet in Mother's home, it was difficult to determine whether Mother was learning new skills. According to Stanford, Father looked out for Mother's best interests.

Regional Center employee Maria Carranza testified that Mother recently told her that her instructors would be able to meet with her in her new apartment. According to Carranza, if Mother needed ongoing support for the rest of her life in order to care for her children properly, the Regional Center was prepared to provide it. Mother's ILS instructor from September to November 2007, Yevgine Avadian, testified that she was not able to conduct Mother's program inside Mother's home, so Mother did not make much progress. Because Mother failed to show up for several meetings, Avadian considered terminating Mother's ILS services, but at a recent meeting of Mother's

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<sup>3</sup> Father's counselor sent a letter dated October 10, 2007, to social worker Shields stating that Father completed a course of counseling which he began in August 2007. At a hearing in January 2008, Shields testified that she read a letter from Father's counselor in October 2007, but did not know if it was the same October 10, 2007 letter, which she claimed she received only in January 2008.

instructors in Mother's new apartment, Mother told her new ILS instructor, Chanel Thomas, that Mother wanted to continue with ILS services.

Shields testified that Father was escorted out of visits several times because of his verbally aggressive behavior; his children and foster agency staff were scared of him. Shields admitted that the case plan was adequate and that Father had completed counseling and parenting programs, but she believed that Father could benefit from more thorough individual counseling.

After the January 2008 hearing, the juvenile court found the parents to be in partial compliance with the case plan and that DCFS had provided reasonable services; due to special circumstances, the court ordered six more months of reunification services.<sup>4</sup> A July 2008 status review report stated that Father had become more controlling and was interfering with Mother's Regional Center services by not allowing the instructors into the home. Although Father had agreed to continue with individual counseling in May 2008, he did not follow through and had not begun counseling. DCFS maintained that Mother lacked the skills to care for four children with special needs and recommended terminating reunification services and setting a section 366.26 hearing.

On August 12, 2008, the court found DCFS's report to be insufficient and continued the contested 18-month review hearing to August 21, 2008. On August 19, 2008, DCFS provided a status review report containing summaries of the social worker's recent interviews with Mother's parenting and ILS instructors as well as with the paternal aunt and paternal grandmother. The report also contained the social worker's observations during an unannounced August 13, 2008 home visit.

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<sup>4</sup> The record does not contain the reporter's transcript for the date of the court's ruling on January 23, 2008, and the minute order for that date does not explain the basis for the court's ruling. At the next hearing in July 2008, counsel for DCFS stated that in January 2008, the court "ordered six more months of reunification, due to special circumstances."



Stanford, Mother's parenting instructor, said that the parents' current living conditions were not appropriate for four children and that the apartment would have to be cleaned up a great deal. Mother's ILS instructor said that Mother's services had not been approved for June and July 2008 and the instructor would soon resume visiting Mother. It was difficult for the instructor to gauge Mother's abilities with the tasks of daily life because Father did not allow her to do things on her own.

According to the paternal aunt, Father was argumentative and it was difficult to talk with him; Father was "a very angry man and he would not have the patience to deal with four children." In the opinion of the paternal aunt, the children would be better off in foster care because the parents argued constantly, Mother would be overwhelmed with the responsibility of caring for four children, and the parents had never kept a clean home. When the children lived with the parents, the paternal aunt observed Father hit K.H. After visiting with the paternal aunt, K.H. would not want to leave the aunt's home because the aunt protected K.H. from Father and cared for her. The paternal aunt apologized to the social worker for not informing DCFS earlier of Father's anger management problem.

The paternal grandmother told the social worker that she did not have a good relationship with Father because Father felt that the paternal grandmother had abandoned Father and Father's sister when they were children. The paternal grandfather had a drinking problem and beat the paternal grandmother, so she abandoned Father and the paternal aunt, leaving them with the paternal grandfather, who got drunk and beat Father. When Father grew older, Father hit the paternal grandfather and became as aggressive as the paternal grandfather. The paternal grandmother believed that Father had a drinking problem in the past but did not currently drink or smoke. In the opinion of the paternal grandmother, return of the children to the parents was not a good idea because the parents were not ready for such a responsibility and the children were doing well in foster care.

With respect to Father's continued counseling program, DCFS referred Father for continued counseling in February and April 2008. In February, Father said that he had already completed everything and felt he should not have to do anything else. Father

attended an appointment for a program in April, but was not accepted for services there because Father stated he did not have an alcohol or anger management problem. In May 2008, Father accepted a referral for a free of cost individual therapy program and went to an intake interview, but did not continue to attend the weekly sessions. Father stated that he did not then have the time to attend the sessions because he was completing a community service program he was required to attend because he got a traffic ticket.

At the contested 18-month review hearing on August 21, 2008, Stanford testified that Mother could cook meals, clean the home, and make purchases. Stanford believed that Mother was capable of parenting her children and that she had no concerns about Father interfering with Mother's services. But Stanford had no opinion as to whether the return of the children would expose them to substantial risk of harm; she was not sure whether Mother could multitask sufficiently to take care of four children.

Counsel for DCFS argued in favor of terminating reunification services. Each parent's counsel argued that DCFS had not established that the children would be harmed by returning them to parental custody; if the children were not to be returned home, parents' counsel argued that Mother's disabilities constituted an exceptional circumstance warranting an additional period for reunification. Counsel for the children argued that it was not safe to return the children to the parents, but that the family could benefit from more services.

The juvenile court terminated family reunification services and set a section 366.26 hearing for January 5, 2009. The court found that the return of the children to the parents would create a substantial risk of harm to the children, the parents partially complied with the case plan, and DCFS made reasonable efforts to reunify the family. The court also determined that the case did not qualify as an extraordinary circumstance case because the parents had over two years of intensive services, fully cooperated with DCFS only in the last six months, and "even so I still don't believe they're in complete compliance with the case plan." The court further explained: "I don't believe the parents would be able to handle it if one of their children became ill in the middle of the night and nobody was there. I don't believe they have the ability to properly supervise four

children, some of whom have very special needs. I don't know that they'll ever get to that point. But they're certainly not there now. [¶] . . . I think they have made significant improvement in that Mother can now cook. And they've made improvements in caring for themselves. [¶] But that's very different than caring for little children. You have to be able to multitask. You have to be able to do several things all at the same time. And I don't believe the parents have that capability. [¶] And they've received a lot of services. So I don't think there's anything further we can do that will get them to the point where they can care for these children. If the children were older [or] if they had less special needs, that might be different."

Mother and Father each filed a petition for an extraordinary writ and a request for a stay of the section 366.26 hearing set for January 5, 2009. The children's attorney filed a letter in support of the petitions for an extraordinary writ.

### **DISCUSSION**

The parents contend that there was insufficient evidence to support the finding that DCFS made reasonable efforts to provide family reunifications services and that the court erred in failing to exercise its discretion to extend reunification services.

We agree with DCFS that the authority of the juvenile court at the 18-month hearing to set a section 366.26 hearing is not dependent upon a reasonable services finding. (*Denny H. v. Superior Court* (2005) 131 Cal.App.4th 1501, 1511 (*Denny H.*) [section 366.22, subdivision (a) states in unequivocal terms that if the child is not returned to the parents at the 18-month review, the court shall order a section 366.26 hearing].) Nevertheless, there are "several cases where a juvenile court has extended services beyond the 18-month statutory period, but only under extraordinary circumstances 'involv[ing] some external factor which prevented the parent from participating in the case plan.' [Citation.] For example, in *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1787 . . . , the reviewing court affirmed the lower court's exercise of discretion 'to accommodate the special needs of the family of the mentally ill in the unusual circumstances presented by this case.' In particular, the mother was hospitalized

for all but five months of the 18-month reunification period. (*Id.* at p. 1777.)” (*Denny H.*, *supra*, 131 Cal.App.4th at p. 1510.)

Because the juvenile court has discretion to extend services beyond the 18-month statutory period, and because the juvenile court here concluded that this case did not meet the “extraordinary circumstances” requirement because, in part, it found reasonable services had indeed been provided, we address the issue of whether the juvenile court’s reasonable services finding is supported by substantial evidence.

To support a finding of reasonable services, “the record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult . . . .” (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.) “The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.” (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.) And DCFS is not required to “take the parent by the hand and escort him or her to and through classes or counseling sessions.” (*In re Michael S.* (1987) 188 Cal.App.3d 1448, 1463, fn. 5.) “The adequacy of reunification plans and the reasonableness of DCFS’s efforts are judged according to the circumstances of each case” (*Amanda H. v. Superior Court* (2008) 166 Cal.App.4th 1340, 1345), and the “applicable standard of review is sufficiency of the evidence” (*id.* at p. 1346).

Mother argues the DCFS “abdicated” its responsibilities entirely to the Regional Center and did not adequately monitor the services being provided by the Regional Center and Mother’s progress in her programs. The record belies Mother’s argument. DCFS was in frequent contact with the Regional Center and spoke to Mother’s instructors on numerous occasions. Two of Mother’s instructors also testified in court in January and August 2008.

Father argues that DCFS did nothing more than provide him lists of services for his continued counseling courses and that DCFS should have helped him to enroll in the

courses. Father also faults DCFS for failing to make a home visit close in time to the August 2008 hearing and for failing to afford him vocational services. The record shows that in May 2008, Father enrolled in a counseling program but decided not to attend any sessions, claiming he did not have the time. And on August 13, 2008, a DCFS social worker visited the parents' home.

Father's claim that DCFS should have provided him with vocational services is based on a statement in *Mother's* psychological evaluation that the parents could both benefit from vocational assessment and training. But DCFS reasonably could have disregarded this statement as to Father because Father was not the subject of the psychological evaluation, was never referred to Regional Services, and did not claim below that he needed vocational assistance. Moreover, the record shows that Father claimed to be employed throughout most of the time the matter was pending below.

For all of the foregoing reasons, the record contains substantial evidence supporting the juvenile court's findings of reasonable services and efforts by DCFS.

We reject Mother's contention that the juvenile court erred in failing to exercise its discretion as to whether services should be extended. The juvenile court discussed the issue and explained why it found there were no extraordinary circumstances justifying an extension, so the court clearly exercised its discretion.

We also conclude that the denial of an extension of reunification services did not constitute an abuse of discretion. The parents fail to identify any extraordinary circumstance involving "some external factor which prevented the parent from participating in the case plan." (*Denny H.*, *supra*, 131 Cal.App.4th at p. 1510.)

The record also fails to show the stringent requirements for a continuance. "Any discretion to extend services beyond the 18 months for extraordinary circumstances logically would lie in the granting of a continuance of the 18-month review hearing pursuant to section 352, subdivision (a), which allows a juvenile court to 'continue any hearing under this chapter beyond the time limit within which the hearing is otherwise required to be held.' However, continuances will not be granted willy-nilly; the proponent must meet stringent requirements. First, a continuance will not be granted if it

is contrary to the minor's interest, and in discerning that interest, the court must give substantial weight to the 'minor's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements.' [Citation.] Second, a continuance will only be granted on a showing of good cause, and only for the period of time shown to be necessary. [Citation.] We conclude that given the imperative to resolve dependency cases in a timely fashion, a continuance for 6 months after an 18-month review would be outside the scope of what the Legislature intended with enactment of the continuance statute. The result would be 'a 24-month review, which does not exist in California's dependency statutes.' [Citation.]" (*Denny H., supra*, 131 Cal.App.4th at pp. 1510–1511.)

The parents fail to establish that the juvenile court abused its discretion in impliedly determining that a continuance would not be in the children's interest and that there was no good cause for a continuance. The juvenile court stated that the parents had over two years of extensive services and "I don't think there's anything further we can do that will get [the parents] to the point where they can care for these children." Under the circumstances of this case, the juvenile court did not abuse its discretion in refusing to extend reunification services for an additional period of time.

Because the parents' petitions are denied, we deny the request for a stay of the section 366.26 hearing.

## **DISPOSITION**

The petitions for an extraordinary writ are denied. The request for a stay is denied.

NOT TO BE PUBLISHED.

MALLANO, P. J.

We concur:

ROTHSCHILD, J.

WEISBERG, J.\*

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\* Retired Judge of the Los Angeles Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.